

FILED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

07 NOV -6 AM 9:39

UNITED STATES OF AMERICA,

Magistrate Docket No **07 MJ 2602**CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIABY: *PAU* DEPUTY

Plaintiff

COMPLAINT FOR VIOLATION OF:

v.

Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

Jose MACEDO-De La Cruz,

Defendant

The undersigned complainant, being duly sworn, states:

On or about November 5, 2007 within the Southern District of California, defendant, **Jose MACEDO-De La Cruz**, an alien, who previously had been excluded, deported and removed from the United States to Mexico, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


 SIGNATURE OF COMPLAINANT

 James Trombley
 Senior Patrol Agent
SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 6th DAY OF November, 2007


 Cathy A. Bencivengo
 UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Jose MACEDO-De La Cruz

PROBABLE CAUSE STATEMENT

On November 5, 2007, Senior Patrol Agent Ladislao Ramirez was performing uniformed linewatch duties with the Chula Vista Border Patrol Station's All Terrain Vehicle Unit. Agent Ramirez received a radio call of a group of suspected illegal entrant aliens near an area known as Co Part. This area is located approximately one mile east of the Otay Mesa, California, Port of Entry and one mile north of the United States/Mexico International Border. Agent Ramirez responded to the area where the individuals were last seen and began searching the area. After a brief search Agent Ramirez found three individuals attempting to conceal themselves in some brush. The Agent approached the individuals, identified himself as a Border Patrol Agent and questioned the individuals as to their citizenship. When asked of what country they were citizens all three individuals, including one later identified as the defendant **Jose MACEDO-De La Cruz**, answered "Mexico". Agent Ramirez then asked them if they possessed any immigration documents allowing them to legally enter or to remain in the United States. All three including the defendant, answered "No". At approximately 1:30 am all three individuals were arrested and transported to the Chula Vista station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **October 23, 2007** through **San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant stated that he is a citizen and national of Mexico without the proper immigration documents to enter and or to remain in the United States legally. The defendant admitted to knowing that his entry into the U.S. was illegal.